

FACTSHEET

TITLE: PRE-EXISTING USE PERMIT NO. 8F, VAN DORN PLAZA, requested by Monte Froehlich on behalf of Restaurants Space 1997A, Inc. and DeeJays Corporation, for authority to expand the pre-existing use permit, including requests to adjust the parking requirements and the front yard setback, on property generally located northeast of the intersection of Van Dorn Street and South 48th Street.

STAFF RECOMMENDATION: Conditional Approval

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda, 09/13/06
Administrative Action: 09/13/06

RECOMMENDATION: Conditional Approval (9-0: Strand, Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor voting 'yes').

ASSOCIATED REQUESTS: Change of Zone No. 06057 (06-173).

FINDINGS OF FACT:

1. This proposed amendment to the pre-existing use permit was heard in conjunction with the associated change of zone at Planning Commission.
2. This is a request for authority to demolish the existing building and erect a new building for a restaurant and drive-through facility. This request proposes to expand the B-2 zoning district and the pre-existing use permit to include an additional .38 acre and approximately 2,500 square feet of commercial floor area.
3. This request also seeks waivers to adjust the parking from one space per 100 square feet of floor area to one space per 150 square feet of floor area and to adjust the front yard setback from 20 feet to 6 feet for parking.
4. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.3-4, concluding that the rear yard setback in B-1 is intended to provide a buffer for neighboring residential, but in this case unnecessarily limits development on a portion of the site which is fully surrounded by commercial development. The adjustment to the 20' front setback only relates to parking in the front yard and not buildings, and includes a 6'-wide landscape strip where there previously was none. Parking can also be adjusted with the use permit where justified. The applicant notes that the majority of the business will be drive-through customers and the parking at one space per 150 square feet of floor area versus one space per 100 is adequate. It is appropriate to rezone this site consistent with the adjacent shopping center, and the adjustments to the front setback and parking will facilitate redevelopment which is more aesthetic.
5. On September 13, 2006, this application appeared on the Planning Commission Consent Agenda and was opened for public hearing. No one came forward to speak.
6. On September 13, 2006, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend conditional approval, as set forth in the staff report dated August 30, 2006.
7. On September 13, 2006, the Planning Commission also voted 9-0 to recommend approval of the associated Change of Zone No. 06057.

FACTSHEET PREPARED BY: Jean L. Walker

REVIEWED BY: _____

REFERENCE NUMBER: FS\CC\2006\PEUP.8F+

DATE: September 18, 2006

DATE: September 18, 2006

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for September 13, 2006 PLANNING COMMISSION MEETING

NOTE: This is a combined staff report for related items. This report contains a single background and analysis section for all items. However, there are separate conditions provided for each individual application where appropriate.

PROJECT #: Change of Zone #06057
Pre-Existing Use Permit #8F - Van Dorn Plaza

PROPOSAL: Change the zoning from B-1 Local Business to B-2 Planned Neighborhood Business and expand the area of the use permit to include Lot 430 I.T. and approximately an additional 2,500 square feet of floor area.

LOCATION: Northeast of the intersection of Van Dorn and South 48th Streets.

WAIVER REQUESTS:

1. Adjust the required number of off-street parking stalls.
2. Adjust front setback from 20' to 6' for parking.

LAND AREA: Approximately .38 of an acre.

CONCLUSION: The rear yard setback in B-1 is intended to provide a buffer for neighboring residential, but in this case unnecessarily limits development on a portion of the site which is fully surrounded by commercial development. The adjustment to the 20' front setback only relates to parking in the front yard and not buildings, and includes a 6'-wide landscape strip where there previously was none. Parking can also be adjusted with the use permit where justified. The applicant notes that the majority of the business will be drive-through customers and the parking at one space per 150 square feet of floor area versus one space per 100 is adequate. It is appropriate to rezone this site consistent with the adjacent shopping center, and the adjustments to the front setback and parking will facilitate redevelopment which is more aesthetic.

RECOMMENDATION:

Change of Zone #06057

Pre-existing Use Permit #8F

Waivers: **1. Adjust parking**
2. Adjust front setback

Approval

Conditional Approval

Approval

Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 430 I.T. in the SE 1/4 of Section 32, T10N, R7E of the 6th P.M.,

Lincoln, Lancaster County, Nebraska.

EXISTING ZONING: B-1 Local Business

PROPOSED ZONING: B-2 Planned Neighborhood Business

EXISTING LAND USE: Restaurant (fast food)

SURROUNDING LAND USE AND ZONING:

North:	Parking Lot	B-2
South:	Bank w/ drive-thru	B-1
East:	Retail	B-1
West:	Retail	B-1

HISTORY:

December 3, 1984 - PEUP#8E was approved allowing an additional 1,600 square feet of floor area to be added to Van Dorn Plaza.

August 22, 1983 - PEUP#8D was approved allowing additional signs for this B-2 area.

June 7, 1982 - PEUP#8C was approved allowing the U.S. Post Office on the eastern portion of the site.

March 16, 1981 - PEUP#8B was approved allowing a photo finishing kiosk.

September 2, 1980 - PEUP#8A was approved allowing an ATM for 1st National Bank.

May 8, 1979 - The zoning on the site was changed from G Local Business District to B-1 Local Business with the 1979 Zoning Update.

COMPREHENSIVE PLAN SPECIFICATIONS:

Page F25 - The Land Use Plan designates this area for commercial land uses.

ANALYSIS:

1. The applicant is proposing to demolish the existing building and erect a new one for a restaurant with a drive-through facility. This request proposes to expand the B-2 zoning district and the associated use permit to include an additional .38 of an acre of land and approximately 2,500 square feet of commercial floor area.
2. The Van Dorn Plaza shopping center was developed prior to 1979, the year the Zoning Ordinance was updated and expanded to include the B-2 district. The area now zoned B-1 in the vicinity of the South 48th and Van Dorn Streets intersection was G Local Business prior to 1979, and the area now zoned B-2 surrounding Van Dorn Plaza was G-1 Planned

Commercial. The B-2 is a 'use permit' district, and all development is subject to an approved use permit.

3. For comparison, the setbacks and required parking in the B-1 and B-2 Per Lincoln Municipal Code (LMC) are summarized as follows:

	B-1	B-2
Front	20'	20'
Side	0', or 10'* if abutting residential district*	0', or 20'* when abutting residential
Rear	30' or 20% of depth	0', or 50'* when abutting residential
Off-street Parking (restaurant)	One space per 100 square feet of floor area (1/100), Parking is allowed In the front yard	One space per 100 square feet of floor area (1/100), Parking is not allowed in the front yard

*When a side or rear yard abuts a residential district, it shall be screened in conformance with the landscape design standards.

4. One of significant differences between the two zoning districts is the rear setback. The B-1 requires a setback equal to 30' or 20% of the lot depth. In this case, the rear setback is 28.6'. A change of zone to B-2 eliminates the rear setback on this lot and allows the building to be sited closer to the north and east property lines. This also allows for the 6' landscape strip along Van Dorn and South 48th Streets.
5. The other significant difference is that parking is allowed in the front yard in the B-1, but not in the B-2. The adjustment to the front setback reduces the front yard to 6' to allow the parking as shown. The setback adjustment only affects parking in the front yard as the building is shown meeting required setbacks. The proposed site plan shows a 6'-wide landscape strip adjacent to the parking lot, where previously none existed.
6. Parking for restaurants in the B-2 district must be provided at the rate of one parking space per 100 square feet of floor area. The site plan shows parking provided at one space per approximately 150 square feet of floor area. Based upon the 2,500 square foot building shown, 25 spaces are required, but 17 spaces are shown. The applicant notes that the restaurant is being constructed as a restaurant with a drive-through facility, and that more than half the business generated will be attributed to the drive-through customers and fewer parking stalls are required as a result.
7. If these requests are approved, any development or redevelopment is subject to compliance with the use permit and the requirements of the B-2 district. Inclusion into the use permit and

B-2 district also could facilitate future redevelopment of the shopping center if it occurs, and would encourage a more consistent development pattern in the area.

CONDITIONS OF APPROVAL:

Site Specific:

1. This approval permits an expansion of Pre-existing Use Permit #8F to include Lot 430 I.T. with adjustments to parking from 1 space per 100 square feet of floor area to 1 space per 150 square feet of floor area and to the front yard setback from 20' to 6' for parking.

General:

2. Before receiving building permits:
 - 2.1 The construction plans comply with the approved plans.

Standard:

3. The following conditions are applicable to all requests:
 - 3.1 Before occupying this building all development and construction is to comply with the approved plans.
 - 3.2 All privately-owned improvements including landscaping are to be permanently maintained by the owner.
 - 3.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 3.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 3.5 The applicant shall sign and return the letter of acceptance to the City Clerk within 60 days following the approval of the special permit, provided, however, said 60-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the applicant.

Prepared by

Brian Will
441-6362, bwill@lincoln.ne.gov
Planner
August 30, 2006

OWNER: Restaurants Space 1997A, Inc., DeeJays Corp.
PO Box 279
Noonan, ND 58765
306.637.3311

**APPLICANT/
CONTACT:** Monte Froehlich
1320 P Street Ste 200
Lincoln, NE 68508
402.475.8776

**CHANGE OF ZONE NO. 06057
AND
PRE-EXISTING USE PERMIT NO. 8F,
VAN DORN PLAZA**

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

September 13, 2006

Members present: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Strand, Sunderman and Taylor.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 06056; CHANGE OF ZONE NO. 06057 and PRE-EXISTING USE PERMIT NO. 8F; SPECIAL PERMIT NO. 06048; COMPREHENSIVE PLAN CONFORMANCE NO. 06010; COMPREHENSIVE PLAN CONFORMANCE NO. 06011; ANNEXATION NO. 06015, CHANGE OF ZONE NO. 06058 and USE PERMIT NO. 06005.**

Ex Parte Communications: None.

Item No. 1.4, Comprehensive Plan Conformance No. 06010, was removed from the Consent Agenda at the request of Commissioner Strand.

Taylor moved approval of the remaining Consent Agenda, seconded by Carroll and carried 9-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Strand, Sunderman and Taylor voting 'yes'.

Note: This is final action on Special Permit No. 06048, Comprehensive Plan Conformance No. 06011 and Use Permit No. 06005, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.



Change of Zone #06057
Pre-Existing Use Permit #8F
S. 48th St & Van Dorn Street

2005 aerial

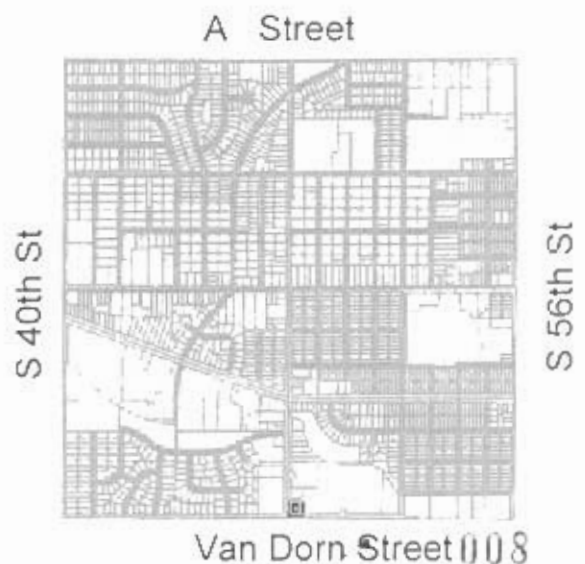
Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial Center
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
 Sec. 32 T10N R07E

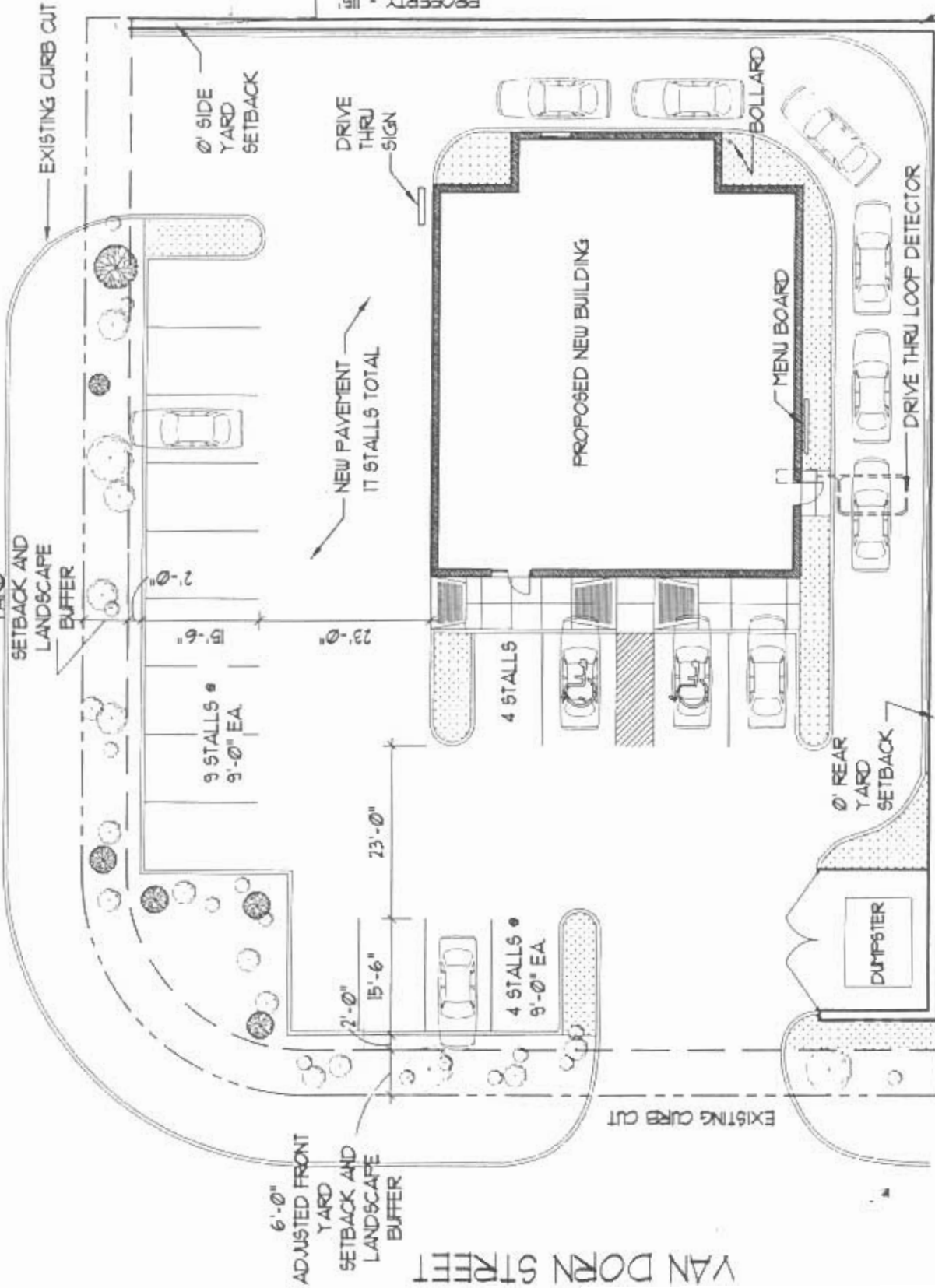


Zoning Jurisdiction Lines
 City Limit Jurisdiction



SOUTH 48TH STREET

6'-0" ADJUSTED FRONT YARD SETBACK AND LANDSCAPE BUFFER



PROPERTY = 143'

PROPERTY = 151'

SITE PLAN



SCALE: 1" = 20'-0"

SITE CONDITIONS UNDER B-2 ZONING
WITH REQUESTED ADJUSTMENTS

166 SF AVAILABLE LANDSCAPED AREA

166 SF AVAILABLE LANDSCAPED AREA

RECEIVED

UG 17 2006

LINCOLN CITY/ALCASTER CO. PLANNING DEPARTMENT

SITE PLAN

NEW DRIVE-THRU RESTAURANT
2748 S. 48TH STREET
LINCOLN, NEBRASKA

Date 8.16.06



ERICKSON
SULLIVAN
ARCHITECTS

209 South 9th Street
Lincoln, NE 68508
Tel: 402.475.1787 Fax: 402.475.1800

A1.0

CHANGE OF ZONE SUBMITTAL and AMENDMENT TO THE PRE-EXISTING USE PERMIT 8E

Date: August 16, 2006

PROJECT: Proposed New Drive-Thru Restaurant and Site Redevelopment

LEGAL DESCRIPTION: Lot 430 of Irregular Tracts in the Southeast ¼ of Section 32, Township 10 North, Range 7 East of the 6th P.M., Lincoln, Lancaster County, Nebraska

ADDRESS: 2748 S. 48th Street, Lincoln, NE
(48th & Van Dorn, Northeast Corner)

PURPOSE OF APPLICATION:

We are herewith requesting a Change of Zone and an Amendment to the Pre-Existing Use Permit (8E) based on the following goals:

The Owner is desirous of redeveloping this property, however, the existing building on the property is in very poor condition and it is not economically feasible to rehabilitate it.

This application is made with the intent of demolishing the existing structure, attached drive-thru, and other paving, and constructing a new restaurant building.

The relatively small size of this commercial parcel (115' x 143') under the existing B-1 zoning will allow a replacement structure of a size too small to feasibly support the cost of redevelopment, due to the Rear Yard setback requirements of the current B-1 District.

Thus, we are requesting a Change of Zone from the current B-1 to B-2 Zoning District. This will bring this parcel into the surrounding B-2 District of the adjacent Van Dorn Plaza property. Further, the B-2 District does not require a Rear Yard setback, and this allows for a structure of larger size than would be allowed under the current B-1 District.

The redevelopment of this property under the proposed B-2 District will allow for the required six foot wide landscaping screen on both street sides of the proposed new parking. The landscape screen does not exist on the current site.

We are requesting an adjustment to the Front Yard setback (under B-2) from the requirement of 20 feet to six feet, to allow the installation of the landscape screen and parking lot construction on both the 48th and Van Dorn Street sides.

Also, we are requesting an adjustment to the required number of parking stalls (under B-2) from the requirement of one stall per 100 SF for restaurant use, to one stall per 150 SF. This adjustment will allow construction of 17 parking stalls, which the restaurant user considers to be adequate for walk-in customers and employees. The majority of restaurant business will be facilitated by the drive-thru lane.

The signage, screening and landscaping requirement submittals shall be furnished at the time of the Building Permit application.

END OF APPLICATION

RECEIVED

AUG 17 2006

010

Review Comments for
Application #: PEUP8F
S 48 ST & VANDORN ST
Comments as of: Wednesday, August 30, 2006

Status of Review: Complete

Reviewed By Building & Safety

Terry Kathe

Comments:

Status of Review: Approved

08/21/2006 7:12:57 AM

Reviewed By Building & Safety

BOB FIEDLER

Comments: approved

Status of Review: Approved

08/28/2006 3:09:29 PM

Reviewed By Health Department

ANY

Comments: LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
 INTER-OFFICE COMMUNICATION

TO: Brian Will DATE: August 28, 2006

DEPARTMENT: Planning FROM: Chris Schroeder

ATTENTION:

DEPARTMENT: Health

CARBONS TO: EH File SUBJECT: S 48th ST & Van Dorn
 EH Administration ST CZ #06057
 PEUP #8F

The Lincoln-Lancaster County Health Department has reviewed the proposed development with the following noted:

All wind and water erosion must be controlled during construction. The Lower Platte South Natural Resources District should be contacted for guidance in this matter.

During the construction process, the land owner(s) will be responsible for controlling off-site dust emissions in accordance with Lincoln-Lancaster County Air Pollution Regulations and Standards Article 2 Section 32. Dust control measures shall include, but not limited to application of water to roads, driveways, parking lots on site, site frontage and any adjacent business or residential frontage. Planting and maintenance of ground cover will also be incorporated as necessary.

Status of Review: Active

Reviewed By Law Department

ANY

Comments:

Status of Review: Active

Reviewed By Lincoln Electric System

ANY

Comments:

Status of Review: Active

Reviewed By Planning Department

BRIAN WILL

Comments:

Status of Review: Complete

Reviewed By Planning Department

RAY HILL

Comments:

Status of Review: Routed

Reviewed By Planning Department

COUNTER

Comments:

Status of Review: Active

Reviewed By Public Works - Development Services

ANY

Comments:

Status of Review: Active

Reviewed By Public Works - Long Range Planning

ANY

Comments:

Status of Review: Active

Reviewed By Urban Development

ANY

Comments:

Status of Review: Active

Reviewed By Urban Development

ANY

Comments:
